(7)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

Misc. Appeal No. (C) 237 **of 2007** Division Bench

APPELLANT/ CLAIMNANT: Smt. Nirmala Minj, W/o Late K.A. Minj @ Bejas Minj, Aged about 40 years, Occupation:- House wife, Permanent R/o Village: Sarhapani, Post: Khutera, P.S. Kansabel, District: Jashpur, present address: Raghunathpur, Police Station/Teh. Ambikapur, District-Sarguja (C.G)

P.R. No. 502/07 Presented by Shri Ramesh Ag. Adv. dated 13/2/07

VERSUS

RESPONDENTS

1. Ramesh Agrawal, S/o K.C. Agrawal, Aged about 35 years, Occupation: Owner of the Vehicle, R/o: - Sadar Road, Ambikapur, Teh. /Police Station:Ambikapur, District: Sarguja (C.G) (Owner)

(4) (8)

2. Shri. Iqbal Ahmed, S/o Shri. Habib Sheikh, Age : unknown, Occupation: Driver, Through: Ramesh Agrawal, S/o K.C. Agrawal, Sadar Road, Ambikapur, Police Station/Teh. – Ambikapur, District: Sarguja (C.G) (Driver)

3. The Oriental Insurance Co. Ltd., Through: Branch Manager, Address: Manendragarh Road, Ambedkar Chowk, Ambikapur, District: Sarguja (C.G) (Insurance Company)

MEMORANDUM OF MISCELLANEOUS APPEAL U/S 173 (2) OF THE MOTOR VEHICLES ACT 1988

(19)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 237 OF 2007

APPELLANT Smt. Nirmala Minj

Versus

RESPONDENTS Ramesh Agrawal & Others

Present : Shri Sushil Dubey, counsel for the appellant.
None for the respondents.

ORAL ORDER
(Passed on 23rd February, 2007)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

This is an appeal filed by the appellant/claimant under Section 173 of the Motor Vehicles Act, 1988 (henceforth "the Act, 1988") for enhancement of compensation against the award dated 29-11-2006 passed by the Motor Accident Claims Tribunal, Sarguja (Ambikapur) (henceforth "the Tribunal") in Claim Case No.78 of 2005, whereby the appellant has been awarded a compensation of Rs.1,92,000/-.

2) Facts briefly stated are that on 29-10-2004 deceased Vivek Minj riding motorcycle bearing registration No.CG-15-7328 was coming from Sarahapani Post Kutera to Raghunathpur, on the way he met with an accident by truck bearing registration No.CG-15-ZC-0697 (henceforth "the offending vehicle"), he sustained injuries and succumbed to those. Mother (appellant) of the deceased filed an application under Section 166 of the Act, 1988 for compensation against the driver, owner and the insurer of the offending vehicle. Respondents contested the claim.

3) Learned Tribunal holding that deceased was a student of class 10th and his age was 16 years. For grant of compensation accepted notional income Rs.15,000/- and after reducing 1/3rd towards his own expenses, allowed dependency Rs.10,000/- per annum, by applying multiplier of 16 allowed Rs.1,60,000/- towards loss of income. Learned Tribunal also allowed Rs.15,000/- towards love & affection, Rs.15,000/- towards loss of estate and Rs.2,000/- towards funeral expenses.

4) Learned counsel appearing for the appellants contended that learned Tribunal did not award just and reasonable compensation.

5) Undisputedly the deceased was a student of class 10th thereby recording the age as 16 years by the Tribunal does not appear to be erroneous. Naturally a boy of 16 years, who is studying, cannot earn. Therefore, learned Tribunal in accordance with Section 163A Schedule II of the Act, 1988, took the notional income, applied correct multiplier of 16 and allowed Rs.1,60,000/- towards loss of dependency. Though for loss of estate only Rs.2,500/- was admissible, yet on compassionate ground learned Tribunal granted Rs.15,000/- which is more than the prescribed limit, towards love and affection allowed Rs.15,000/- and funeral expenses Rs.2,000/-. The compensation assessed and allowed by the Tribunal does not suffer from any illegality or infirmity. In the result, the appeal being devoid of merit liable to be dismissed summarily and is accordingly dismissed *in limine*. No costs.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge